

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DFO GLOBAL PERFORMANCE
COMMERCE LIMITED (NEVADA), *et
al.*,

Plaintiffs,

-v-

KRISHNA DELAHUNTY NIRMEL, *et
al.*,

Defendants.

20-CV-6093 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

In its August 6, 2021 Opinion and Order, the Court reasoned that the Blaux brandname was “inherently distinctive,” based on Defendants’ failure to identify any similarity between Blaux and an “ordinary” word. (Dkt. No. 66 at 18.) In response, Defendants propose, for the first time, that Blaux is pronounced /blou/ or /bloh/ and bears resemblance to the word “blow.” Defendants are free to pursue this theory, which is relevant to the trademark and unfair competition claims, through discovery. “The law of the case doctrine . . . does not preclude [the] Court from reconsidering issues . . . that have initially been raised in the context of a motion to dismiss,” so long as the conclusions reached in resolving the motion are “altered by discovery, or by subsequent developments in the law.” *Nobel Ins. Co. v. City of New York*, No. 00-cv-1328, 2006 WL 2848121, at *4 (S.D.N.Y. 2006); *accord Maraschiello v. City of Buffalo Police Dep’t*, 709 F.3d 87, 97 (2d Cir. 2013).

SO ORDERED.

Dated: August 16, 2021
New York, New York


J. PAUL OETKEN
United States District Judge